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STATE PASS TO USDOL FOR ANA ASLAN AND THERESA ESQUIBEL
DEPARTMENT FOR DRL/ILCSR GABRIELLA RIGG AND WHA/PPC MIKE
PUCETTI

E.O. 12958: N/A

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SUBJECT: PERU: REQUEST FOR FORCED LABOR AND CHILD LABOR
INFORMATION FOR PTPA REPORTING REQUIREMENTS

REF: STATE 38551

11. Per reftel, post has contacted host government officials, NGOs, business and labor groups, and international organizations to obtain updated national-level information on labor law and practice in Peru in 2006. In most cases, the Ministry of Labor and Employment Promotion (MTPE) was the most appropriate office for providing information, although updated national-level data was not always available. The responses are keyed to reftel.

12. Forced Labor: Nature and Incidence

A) Update on forced labor in the logging, agriculture, and mining sectors.

In 2005, the MTPE and the International Labor Organization (ILO) released a survey of labor conditions in the Amazonia region of Peru (primarily in the departments of Ucayali, Madre de Dios, and Loreto) that reported 33,000 persons were involved in forced labor in the illegal logging industry. The MTPE has not conducted additional surveys at the regional or national level since 2005, but on January 9, 2007, Supreme Decree 001-2007-TR created the National Intersectoral Commission for the Eradication of Forced Labor (NCSFL) to coordinate public policies and to document the incidence of forced labor in the logging, agriculture, mining, fishing, and other sectors. The NCSFL has drafted the National Action Plan to Combat Forced Labor, which will detail GOP efforts to prevent and eliminate forced labor. The government plans to approve and release the National Action Plan May 1.

B) Update on forced labor among the mestizo, altoandino and indigenous populations.

The 2005 MTPE and ILO survey found that the majority of forced labor victims in the illegal logging industry were members of ethnic groups. That information has not been updated.

C) Update on number of forced laborers.

There is no nation-wide, official data on the numbers of forced laborers in Peru. Studies done by NGOs and

international organizations have focused on specific geographic areas, particularly cities, or on specific types of work. In 2004, for example, the National Commission for Development and Life without Drugs estimated that 5,000 children were employed in the illegal narcotics industry.

D) Provide the source and destination of persons who are trafficked to and through Peru.

According to the Department of State's 2007 Anti-Trafficking in Persons Report, there are no official GOP figures on the extent or magnitude of the TIP problem. Cases of international trafficking of women have been reported in the past, but the scope of the problem is not known. The primary designations for trafficked persons have been the United States, Spain, Japan, and Italy. Internal trafficking is, by far, the greater problem. NGOs and international organizations maintain that significant domestic trafficking occurs, particularly underage women from the poorest and least developed regions east of the Andes--the Amazonia jungle and the mountains--into the major cities or mining areas to work as prostitutes or domestic servants.

In 2004, Supreme Decree 002-2004-IN created the Permanent Multisectorial Committee, a ministerial-level group chaired by the Director of the Office of Human Rights in the Ministry of the Interior, to track and coordinate government anti-TIP efforts. In 2006, the Commission cosponsored, along with the International Organization on Migration and two local NGOs, a report identifying three cities in Peru, Lima, Iquitos, and Cuzco, as the primary destination points for TIP victims.

The Ministry of the Interior reports that in 2006 2,901 police operations were carried out to combat trafficking in persons, procurement, and child prostitution.

13. Forced Labor: Laws and Enforcement

E) Updates to laws regarding forced labor

On January 16, 2007, the GOP passed Law 28950, which provides protection for TIP victims and witnesses. Article 153 prohibits practices that promote, finance, or facilitate "forced work or services, bondage, slavery or practices that are analogous to slavery or other forms of work exploitation,...."

F) Exceptions to laws prohibiting forced labor.

ILO Agreement 29, ratified by Peru, allows six exceptions to laws prohibiting forced labor, but Peruvian law recognizes only two exceptions: compulsory labor resulting from a judicial sentence, as provided for by the criminal code; and forced labor resulting from force majeure, as provided for in Legislative Decree 854. Legislative Decree 854 allows an employer to require overtime when an act of God presents a serious danger to individuals or property in the workplace.

G) Agency responsible for enforcing labor laws

The regulatory entity responsible for enforcing and implementing labor laws is the MTPE.

H) Prohibitions and Penalties for trafficking for forced labor.

Trafficking for forced labor is prohibited under Peruvian law. Article 153 of Law 28950 establishes penalties from eight to 15 years for persons involved in trafficking; article 153A establishes a penalty of 12 to 20 years for aggravated forms of trafficking (if the victim is less than 18, for example); and a penalty of 25 years in prison if one of three factors is involved: if the victim dies or is seriously wounded; if the victim is under 14; and if the trafficker is part of a criminal organization.

I) Level of resources devoted to investigating forced labor.

In the past, investigations of forced labor within the MTPE have been financed through international cooperation funds. The MTPE plans to request budgetary authority, as part of the National Action Plan to Combat Forced Labor, to create a separate office within the MTPE specifically tasked to investigate cases involving violations of fundamental labor rights, including forced labor. The MTPE plans to employ 30 inspectors by June 30 in this office.

J) Extent of investigations and violations

The GOP does not possess updated figures on the number of forced labor investigations, prosecutions, and convictions.

K) Status of enforcement actions in the Atalya region.

The National Action Plan to Combat Forced Labor tasks the NCSFL, as a first priority, to develop an integrated strategy to reduce and eliminate forced labor in the Atalya region, not only through legal sanctions but also through programs designed to address the underlying causes of forced labor.

14. Forced Labor: Government Policies and Programs

L) History of government efforts to combat forced labor

In 2003, the GOP requested technical assistance from the ILO to study and document the incidence of forced labor in the Ucayali region of Peru. The GOP has continued to work with the ILO to document forced labor practices in Peru.

In June 2005, Supreme Resolution 028-2005-TR created the Intersectoral Commission, which met with social organizations, labor and business groups, and local public

authorities to survey the extent of forced labor in the cities of Iquitos, Ucayali, Puerto Maldonado, and Cuzco. Supreme Resolution 056-2005-TR, issued in October 2005, published an action plan to address the problems uncovered by the Intersectoral Commission. The NCSFL is working with regional authorities to develop a follow-up action plan to continue implementing the recommendations of the Intersectoral Commission.

The MTPE is continuing efforts to increase the numbers and professionalism of labor inspectors and is developing an Employment Sectorial Plan to strengthen fundamental labor rights.

M) Recent Activities by the National Intersectoral Commission

Ministerial Resolution 2570-2006-IN/015 established the Registration and Statistics System for Trafficking in Persons Registry (RETA), which has been introduced into police stations throughout Peru. The RETA system creates a nationwide registry of TIP cases. The Ministry of the Interior manages the RETA system and is working with the MTPE to connect it to the Labor Inspections System.

In April of 2007, the NCSFL began offering integrated programs to address the problem of forced labor in domestic employment. The NCSFL has conducted public workshops throughout Peru for employers, institutions, and the general public to explain the rights of domestic workers and to publicize the public services offered by the MTPE to investigate allegations of abuse. The NCSFL also has prepared and distributed informational pamphlets to inform domestic workers of their rights and has developed free courses in cooking, cleaning, and household security to help domestic servants professionalize their work.

The Commission is also developing a public information campaign, to be conducted via television and radio, to explain basic workers' rights under Peruvian law.

Supreme Decree 005-2007-TR declared March 30 the National Day of Workers.

Between February and March of 2007, the MTPE conducted 135 inspections that targeted recently hired workers; the inspections revealed that 73 per cent of workers were unaware of their labor rights under Peruvian law.

The NCSFL has begun a process of collaboration with the Multisectoral Committee to coordinate actions against forced labor. The Ministry of the Interior, for example, has begun an investigation of trafficking in persons in the Madre de Dios and Cuzco regions of Peru with the hope that greater information regarding TIP cases will allow the NCSFL to specifically create programs to reduce forced labor.

N) Additional programs to combat child labor

The MTPE, as a member of the Multisectoral Committee, is participating in the final elaborations of the implementing legislation for Law 28950.

15. Child Labor

O) Incidence of Child Labor

There have been no changes to the information provided in Lima 4714, dated December 18, 2006.

P) Information on the Trafficking in Persons Law

The Multisectoral Committee has not completed the implementing regulations required for Law 28950.

Article 153 of Law 28950 provides specific sanctions against child trafficking. In addition to those penalties noted in H), traffickers or promoters of sexual tourism exploiting victims between 14 and 18 years of age are subject to a

sentence of two to six years; if the victim is under 14, the penalty is six to eight years.

16. Source information for all documents cited will be provided by the MTPE and pouched to OCFT.
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